

Town of Acton

Special Town Meeting Warrant



Wednesday, October 5, 2016

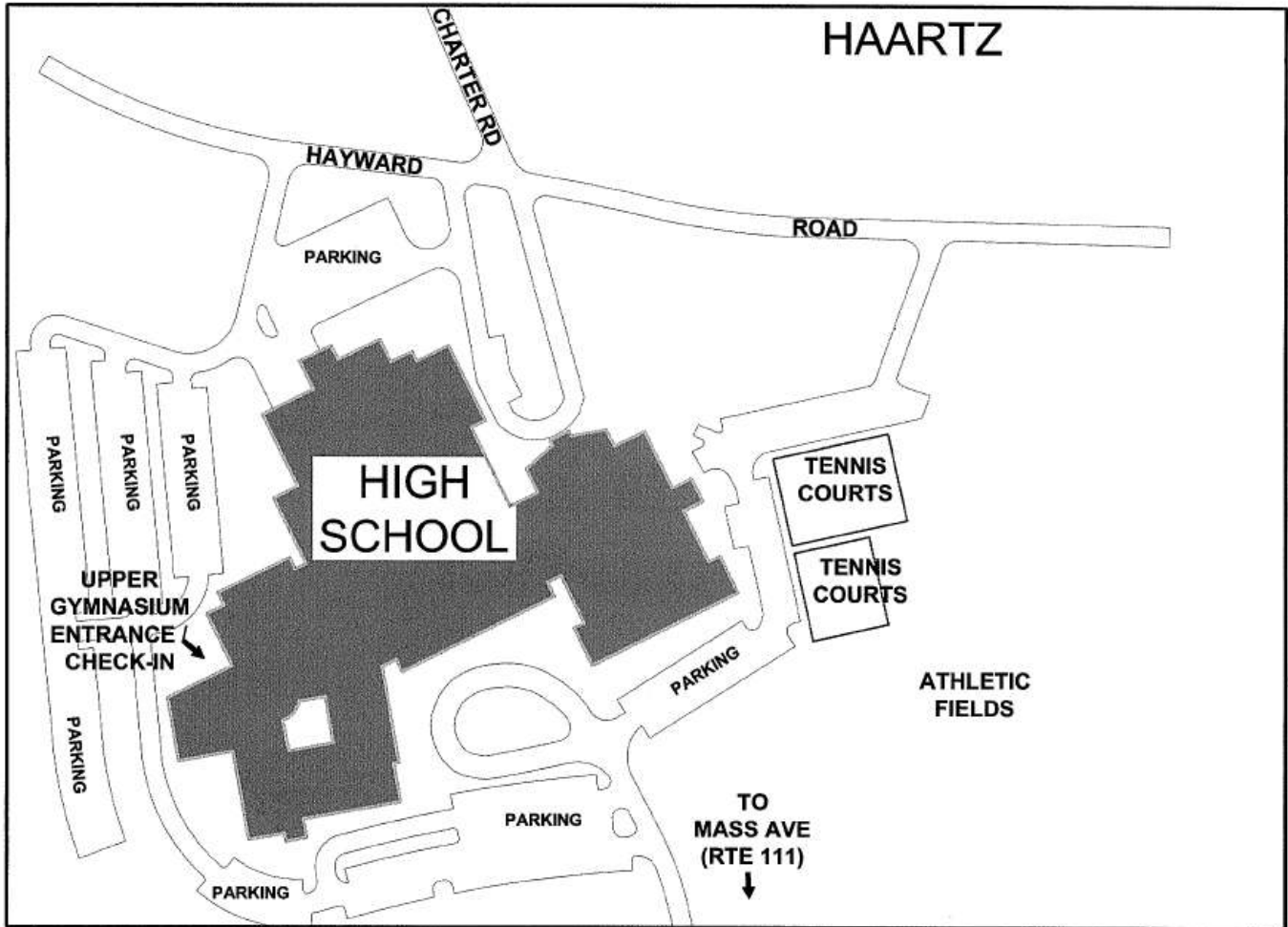
**The Special Town Meeting will convene at 7 PM in the
Acton-Boxborough Regional High School Upper Gymnasium Field House
36 Charter Road**

DRAFT 9/16/16

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Town Meeting Parking Diagram



Elections and Town Meeting Calendar

| Date | Event | Voter registration deadline | Absentee Voting Ends | Early Voting |
|---|---|--|---------------------------------|----------------------------|
| Wednesday October 5 7 PM | Special Town Meeting Upper Gym, AB Regional High School | Saturday September 24 8 AM – 8 PM | N/A | N/A |
| November 8 7 AM – 8 PM | Presidential Election | Wednesday October 19 8 PM | Monday November 7 12 Noon | October 24 - November 4 |

Voter Registration Now Available Online

Massachusetts citizens can apply online by visiting the Secretary of the Commonwealth's website at www.sec.state.ma.us and clicking the “**Online Voter Registration**” link to access the online application system. Any Massachusetts citizen who has a valid identification card issued by the Registry of Motor Vehicles will be able to use the online system to apply to register to vote, update their address or change their party enrollment.

Massachusetts citizens who do not have identification issued by the Registry of Motor Vehicles can still complete an application online which they can print, sign and mail or hand-deliver to the Town Clerk's Office.

Absentee Ballots

The deadline to [apply for an absentee ballot](#) is 12 Noon the day before the election. Your voted ballot must be received by the Town Clerk's Office by 8 PM on election day in order to be counted. Military and overseas voters are entitled to have an absentee ballot emailed or faxed to them.

[Follow this link for more information on military and overseas absentee voting.](#)

New for November 8, 2016 Presidential Election

Early Voting

Early Voting will be available for the November 8 Presidential Election beginning October 24 until November 4 at **5 PM**. Early voting will take place at Town Hall and is available to all voters. Special evening, weekend and early morning hours will be announced in the near future to accommodate as many voters wishing to take advantage of early voting as possible. Early voting may also be conducted by mail. This does not replace absentee voting, but rather expands opportunities for voters.

Pre-registration for 16 and 17 Year Olds

As of August 1, 2016, qualified residents aged 16 and 17 may pre-register to vote in Massachusetts. When a qualified 16 or 17-year-old pre-registers, his or her voter registration application will remain on file until he or she turns 18 years old. Once the pre-registrant turns 18, he or she will be registered to vote and is eligible to vote in Massachusetts elections.

Political Parties

If you wish to change your party enrollment, you may do so by filling out a new voter registration form. Members of political parties may vote only in their own party's primary elections. Unenrolled voters (commonly referred to as "Independents" and Members of political designations or minor parties may vote in the party primary of their choice. Choosing to vote in a particular party's primary does NOT enroll you as a member of that party.

Currently there are 4 parties:

[Democrat](#) (D)

[Republican](#) (R)

[Green-Rainbow](#) (J)

[United Independent](#) (CC)

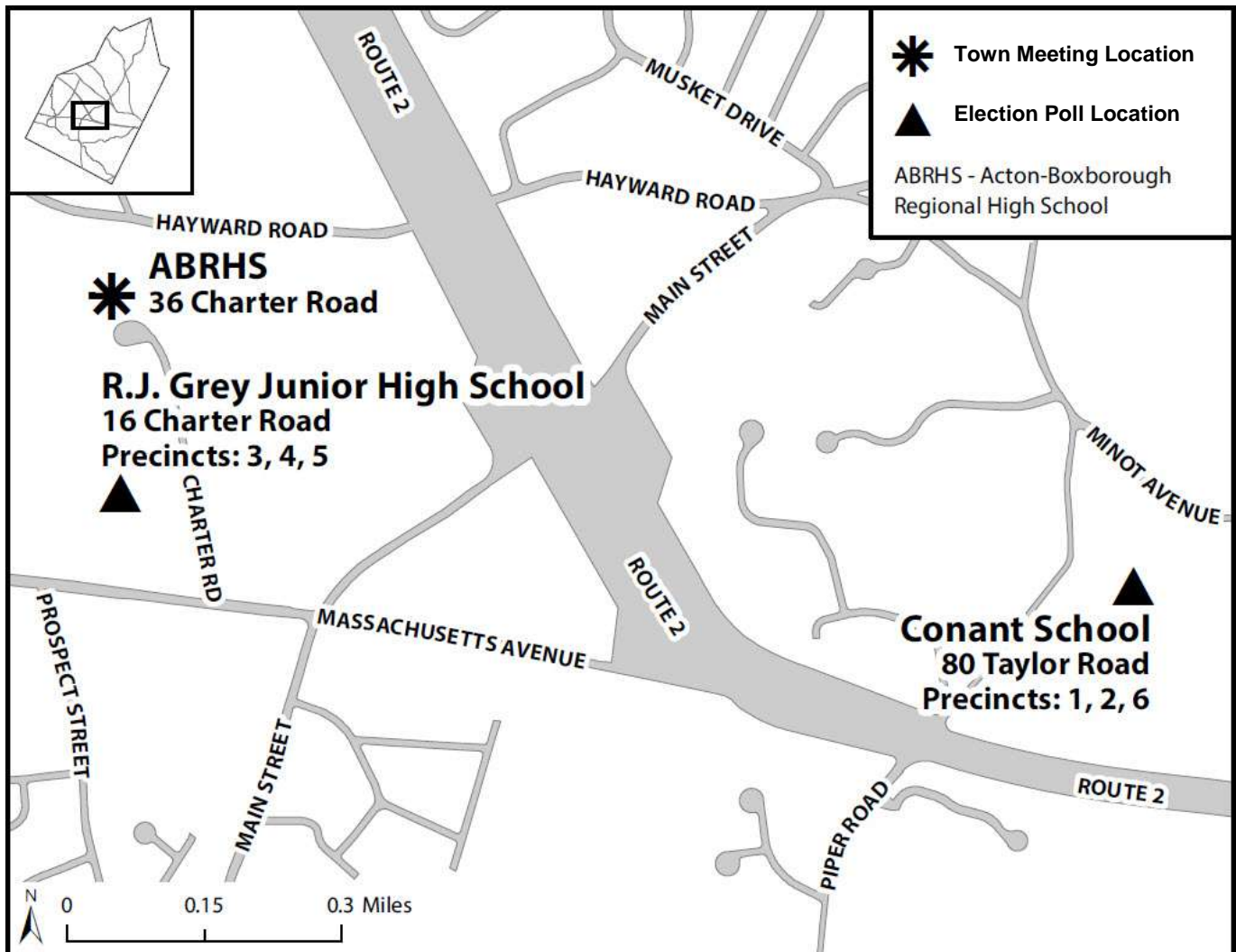
Presidential Election
Tuesday, November 8, 2016
7 AM – 8 PM

Precincts 1, 2 and 6 – Conant School – 80 Taylor Road

Precincts 3, 4 and 5 – R. J. Grey Junior High School – 16 Charter Road

For assistance in determining your election voting location, please use the State Elections Division's website www.WhereDoIVoteMA.com or contact the Town Clerk's Office by e-mail at clerk@acton-ma.gov or by telephone at (978) 929-6620.

The last day for voter registration is Wednesday, October 19. On that day, the Town Clerk's office will be open from 8 AM through 8 PM in Town Hall.



Article Index

* Article is on Consent Calendar

Article submitted by Citizens' Petition

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Special Town Meeting Warrant



*Town of Acton
Commonwealth of Massachusetts, ss.*

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of Town affairs, to meet at the Acton-Boxborough Regional High School Upper Gymnasium Field House, 36 Charter Road, Acton on **Wednesday, October 5, 2016 at 7:00 PM**, then and there to act on the following articles:

One or more of the following symbols may appear following an Article number:

| | |
|---|--|
| * | This article is on the Consent Calendar |
| # | This article was submitted by Citizens' Petition |

One or more of the following recommendations may appear at the end of the Article's summary:

| | |
|--------------------------|---|
| Recommended | This board voted to <u>recommend</u> passage by Town Meeting. |
| Not Recommended | This board voted to <u>not recommend</u> passage by Town Meeting. |
| Deferred | A recommendation will be made by this board when the Article is considered at Town Meeting. |
| No Recommendation | This board voted to make no specific recommendation to Town Meeting. |

Article 1 **Amend Town Bylaws – Town Meeting Temporary Moderator**
(Majority vote)

To see if the Town will vote to amend Chapter A of the General Bylaws by adding Section 8 as follows:

A8. Temporary Moderator

Town meeting shall elect a temporary moderator to act in the absence of the town moderator elected as stated in Section 2-1 of the Town Charter. For purposes of Section 3-2 of the Town Charter and M.G.L. c. 39, § 14, absence shall mean that the town moderator is unable to attend the town meeting, recuses himself or herself from conducting the proceedings and vote on any article or articles at a town meeting, or is otherwise unable to perform the duties of town moderator for all or part of a town meeting.. The temporary moderator shall serve in such position only for those portions of any town meeting for which the town moderator is absent. The term of the temporary moderator shall be one year from election or until a different temporary moderator is elected by town meeting, whichever occurs sooner.

, or take any other action relative thereto.

Summary

Section 3-2 of the Town Charter and Massachusetts General Laws Chapter 39, Section 14 permits the Town to elect at a town meeting a temporary moderator to assume the duties of the town moderator in the event that the town moderator is absent. This proposed General Bylaw clarifies the circumstances under which the town moderator would be considered “absent” such that a temporary moderator would step in to take over the moderator’s duties for any articles for which the moderator is absent. If this General Bylaw is enacted, an elected temporary moderator would serve for one year or until a replacement is elected by Town Meeting, whichever occurs sooner.

Direct inquiries to: Peter Ashton, Town Moderator

Selectman assigned: Chingsung Chang: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 2 **Amend Town Bylaws – Town Meeting Electronic Voting**
(Majority vote)

To see if the Town will vote to amend Chapter A of the General Bylaws by adding Section A7 as follows:

A7. Method of Voting; Determination by Moderator

- a. Unless otherwise required by law, bylaw, regional agreement, or similar binding obligation, , the Moderator shall determine the method of voting on each article at town meeting, which method may vary from article to article, and which method may include a voice vote, a vote by show of hands or the equivalent, a standing vote, a ballot vote, a vote by electronic technology furnished by the town for the use of town meeting members (where available), or a vote by other means as authorized by the Moderator and approved by a two-thirds (2/3) vote of the town meeting members present and voting.
- b. If the vote is unanimous, or if the quantum of the vote required by law is discernible by the Moderator based on the voting method utilized under Section A7(a), the Moderator shall declare the result of the vote and the clerk shall record the result of the vote in the records of the town meeting.
- c. If the Moderator cannot discern the result of the vote based on the voting method utilized under Section A7(a), or if a count is required under Section A5 where a four-fifths or nine-tenths vote of a town meeting is required by statute, or if a vote declared under Section A7(b) of these bylaws is immediately questioned by seven or more voters, the Moderator shall cause the vote to be counted either by tellers or by such electronic technology, whereupon the Moderator shall declare the result of the vote and the clerk shall record the result of the vote in the records of the town meeting.
- d. Pursuant to Article 114 of the Massachusetts Constitution and to the Massachusetts Equal Rights Law, G.L. c. 93, §103, reasonable accommodation shall be made to ensure that equal voting rights of otherwise qualified handicapped individuals present and voting at town meeting are ensured regardless of the method of voting used.

, or take any other action relative thereto.

[Note: The current General Bylaw Section A5 (Vote counts by Moderator) provides as follows:

A5. Vote counts by Moderator

If a two-thirds, four-fifths or nine-tenths vote of a town meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the clerk; provided, however, if a two-thirds vote of a town meeting is required by statute, the Town has authorized the Moderator not to require a count and the clerk shall record the vote as passed by a two thirds margin; and provided, further, that if the vote is unanimous, a count need not be taken, and the clerk shall record the vote as unanimous.]

Summary

This proposed amendment codifies the existing procedures for voting at town meetings in Acton and provides for the use of electronic voting in certain circumstances. At town meeting, there will be a mock demonstration of voting by electronic technology to demonstrate both how the technology works and the situations in which it may apply.

Direct inquiries to: Peter Ashton, Town Moderator

Selectman assigned: Chingsung Chang: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 3 Fund Collective Bargaining Agreement – Fire (FY17-FY19)

(Majority vote)

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds and/or ambulance enterprise funds a sum of money necessary to fund the cost items contained in Collective Bargaining Agreement(s) between the Town and its fire department personnel union as filed with the Town Clerk, and to adjust the Ambulance Enterprise FY17 Budgeted Revenue, Budgeted Expense and Estimated Fund Balance as voted under Article 16 of the 2016 Annual Town Meeting to account for the allocated ambulance enterprise fund portion thereof, or take any other action relative thereto.

Summary

This article asks Town Meeting to fund cost items contained in the first year of a collective bargaining agreement with Town's Fire Department personnel union, under the provisions of Massachusetts General Law, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town brings a funding request for the financial elements of the agreement to the first available Town Meeting for approval. If the funding is approved, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by Town Meeting, the parties must return to the bargaining table for further negotiations. In the present case, a portion (\$50,836) of the cost items is allocated to the FY17 Operating Budget, and the remainder (\$12,709) is allocated to the FY17 Ambulance Enterprise Fund Budget. The allocation results in the following Ambulance Enterprise figures for FY17 compared to those voted under Article 16 of the 2016 Annual Town Meeting:

| Budgeted Revenue for FY17 | Budgeted Expense for FY17 | Estimated Fund Balance as of 6/30/17 |
|---------------------------|---------------------------|---|
| \$ 628,500 | \$ 798,244 | \$ 561,930 |

Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

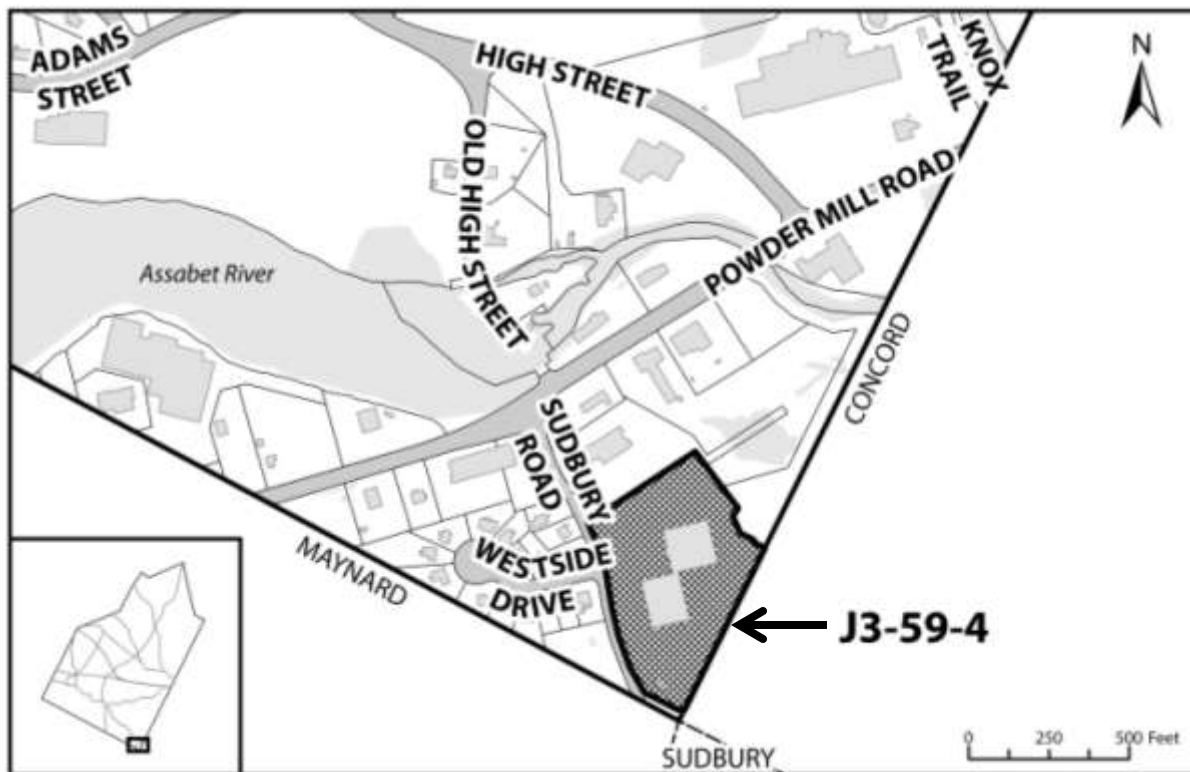
Article 4 Fund Senior Center Lease

(Two-thirds vote)

To see if the Town will raise and appropriate, transfer or appropriate from available funds a sum of money to be expended by the Town Manager to fund the first year lease costs, equipment, moving and startup costs, including related incidental costs, pursuant to Article 26 of the 2016 Annual Town Meeting, or take any other action relative thereto.

Summary

Article 26 of the 2016 Annual Town Meeting authorized entering into a long-term lease (ten years) with an additional renewal period, for an updated space to house the Acton Senior Center and other Human Service departments (Acton Nursing, Veterans Service Officer, and Community Resource Coordinator). The Senior Center is currently located at 50 Audubon Drive and the facility no longer adequately meets the needs of the Senior Center or its users. This article requests funds for the first year's lease cost and basic startup costs to relocate the Senior Center to a portion of the property located at 30 Sudbury Road and shown as parcel 59-4 on the Acton Assessor's map J3. Beginning in FY18, the lease would be funded as a budget obligation of the Town.



Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: Franny Osman: bos@acton-ma.gov / (978) 929-6611

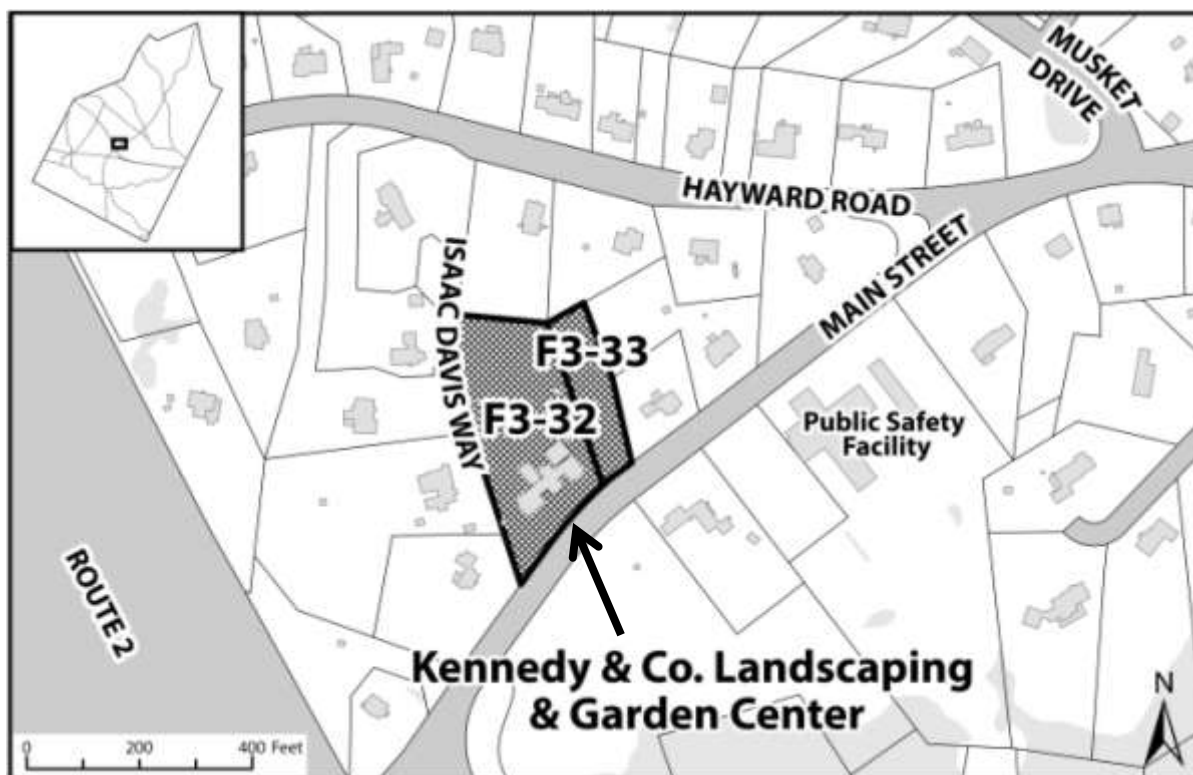
Recommendations: **Board of Selectmen** **Finance Committee**

Article 5 Lease of 362-364 Main Street (Kennedy Landscaping)
(Majority vote)

To see if the Town will vote to authorize the Board of Selectmen to enter into a lease for landscaping and nursery purposes on such terms and conditions as the Selectmen may determine, and ratify a lease assumed by the Town at the time of acquisition, of the premises located at 362-364 Main Street (the “Premises”), containing approximately 2.2291± acres, consisting of parcels 32 and 33 on Acton Assessor’s Map F3, shown as “ Lot 3 ” and “ Parcel C” on the plan entitled “Plan of Land in Acton, Massachusetts (Middlesex County)” dated December 3, 2015 and prepared by Stamski and McNary, Inc. recorded in the Middlesex South Registry of Deeds as Plan Number 78 of 2016, or take any other action relative thereto.

Summary

This article would enable the Board of Selectmen to continue to lease the premises located at 362-364 Main Street to Kennedy & Co. Landscaping & Garden Center for purposes of maintaining a landscaping and nursery business. The Premises is part of the larger parcel of land (348, 350, 352, 362, and 364 Main Street) acquired by the Town as part of the settlement of the litigation captioned *Walker Realty, LLC v. Town of Acton, et al.*, Land Court Case No. 12 MISC 459564 (AHS). The Town assumed the lease between Walker Realty and Kennedy & Co. Landscaping & Garden Center when it acquired the Premises in early 2016, and would like to continue to lease it for this long-standing use while the Town determines the appropriate use for the Premises and larger parcel.



Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: Katie Green: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

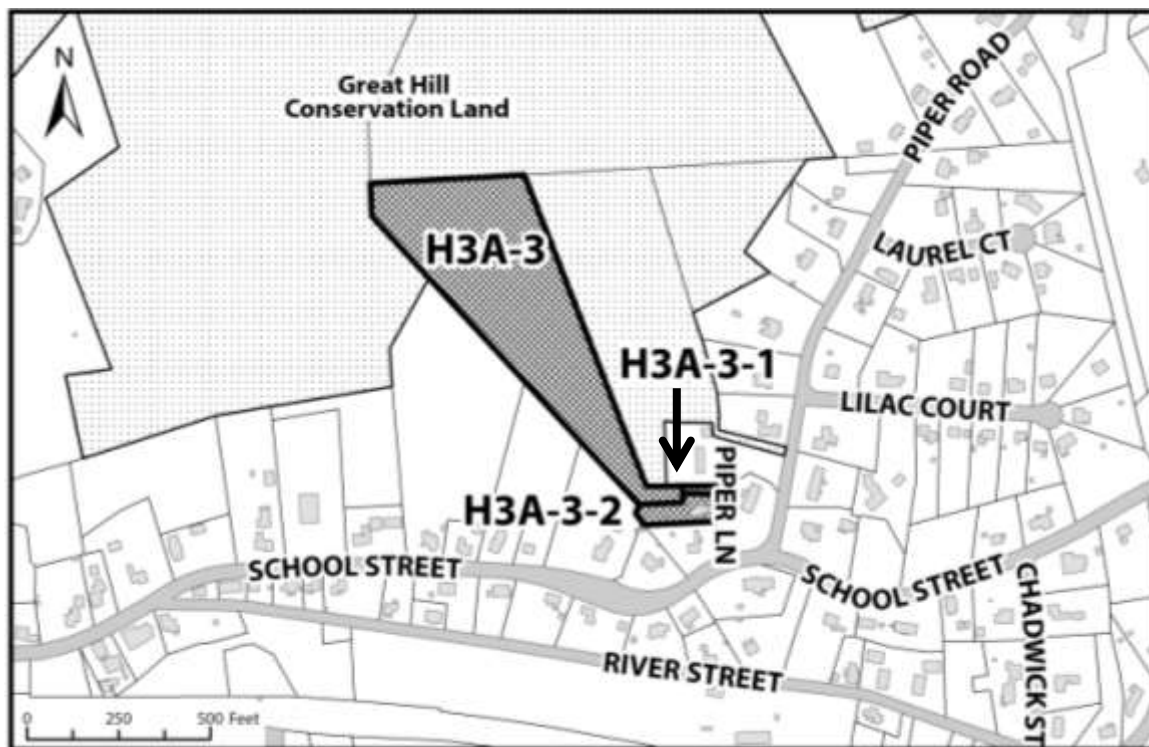
Article 6
(Majority vote)

Land Acquisition – Piper Lane
[Majority vote because Motion is to take no action.]

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise and to accept a deed of fee simple interest, on such terms and conditions as the Selectmen may determine and for general municipal purposes, Parcels 3, 3-1 & 3-2 as shown on the Town of Acton Atlas Map H-3A, and in the deed recorded at the Middlesex South Registry of Deeds in Deed Book 48726 Page 495 and Deed Book 23190 Page 437; and further to see if the Town will raise, appropriate, and/or transfer from available funds or accept gifts for this purpose, or take any other action relative thereto.

Summary

The Magoon parcel(s) abuts 184 acres of Great Hill Conservation and Recreation land. The largest of the Magoon parcels is a forested uplands, with an informal trail bisecting it, connecting the protected open space at Great Hill to the recently acquired Gabel property to the east. In the "2014 - 2021 Open Space and Recreation Plan", the Magoon land is listed as a significant unprotected open space parcel, with high value for passive recreation, environmental significance and open space protection.



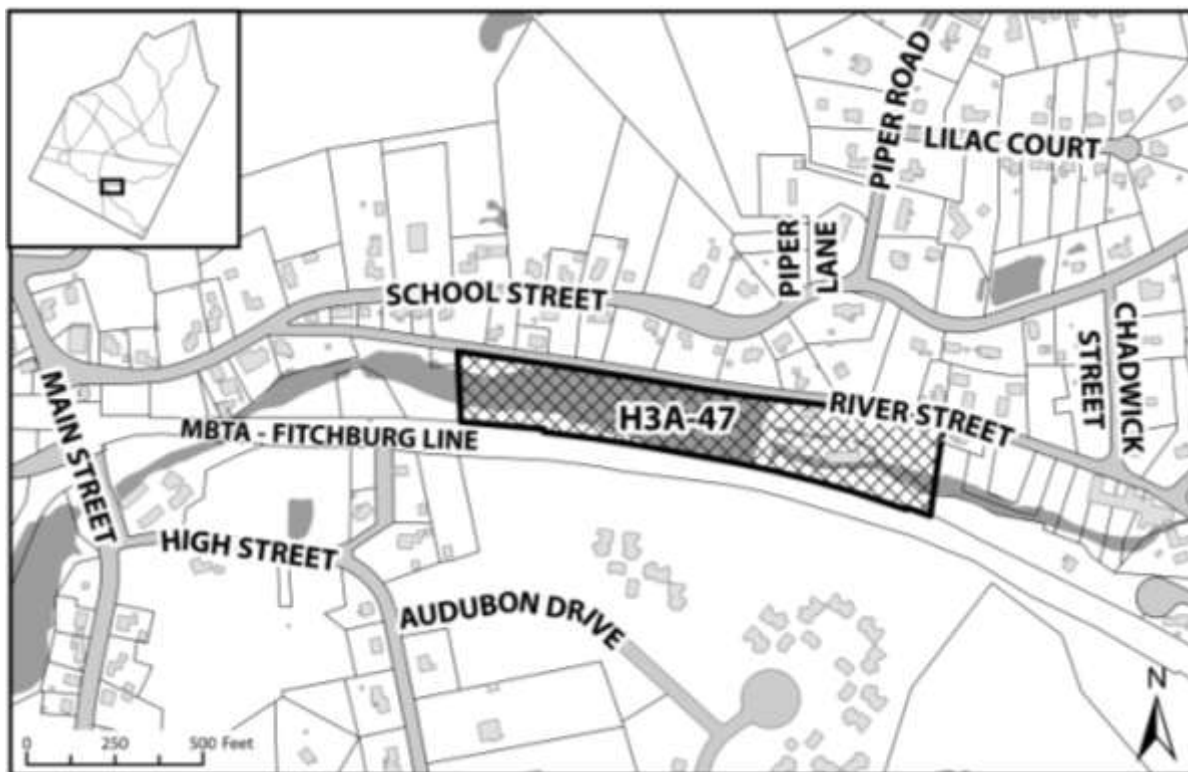
Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: Franny Osman: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 7 **Land Acquisition – 53 River Street**
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Selectmen may determine and for general municipal purposes, and to accept a deed of the fee simple interest in the real property commonly known as 53 River Street in Acton, consisting of approximately 7.26 acres, identified as Parcel 47 on the Town of Acton Assessor's Map H3A, and described in that certain deed dated February 12, 2010 and recorded with the Middlesex South Registry of Deeds in Book 54306, Page 21 (the "Property"), and further to see if the Town will raise, appropriate and/or transfer from available funds or accept gifts for this purpose, or take any other action relative thereto.

Summary – -Tom is writing]



Direct inquiries to: Tom Tidman, Natural Resources Director: nr@acton-ma.gov / (978) 929-6634
Selectman assigned: Janet Adachi: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 8 **Amend Zoning Bylaw – Accessory Apartments**
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw as set forth herein:

A. In Section 3.8 - Accessory Use Regulations, amend Subsection 3.8.1.6 - Accessory Apartments as follows:

1. Delete paragraphs l) and m) and replace them with the following new paragraphs l) and m):
 - l) The apartment may be located within a detached BUILDING that is located on the same LOT as the BUILDING with the Principal DWELLING UNIT.
 - m) If a detached BUILDING on a LOT has been continuously in existence since before 2016 and its footprint and floor area, including the area of interior garage or parking spaces, is not expanded or enlarged thereafter, an apartment in such a detached BUILDING may have a GROSS FLOOR AREA of up to 2000 square feet, not including attic or basement areas, and up to three bedrooms.
2. Insert new paragraphs n), o), p), and q) as follows:
 - n) An apartment in a detached BUILDING constructed after October 5, 2016 may have a GROSS FLOOR AREA of up to 500 square feet.
 - o) A LOT containing a BUILDING with a Principal Unit and an Apartment within a detached BUILDING shall not be further divided resulting in the separation of the Principal Unit and the Apartment, unless both resulting LOTS and the BUILDINGS thereon meet all minimum area, FRONTAGE, width and yard requirements of the applicable zoning district.
 - p) The apartment in a detached BUILDING shall be installed on a permanent foundation.
 - q) The apartment in a detached BUILDING shall only be located in the side and rear yard.

And renumber existing paragraph n) to become paragraph r)

[Note – Subsection 3.8.1.6 paragraphs l) and m) currently read:

l) The apartment may be located within a detached BUILDING that is located on the same LOT as the BUILDING with the Principal DWELLING UNIT, if the detached BUILDING has been continuously in existence since before 2010 and has not been expanded or enlarged thereafter. An apartment in such a detached BUILDING may have a GROSS FLOOR AREA of up to 2000 square feet, not including attic or basement areas, and up to three bedrooms. A LOT containing a BUILDING with a Principal Unit and an Apartment within a detached BUILDING shall not be further divided resulting in the separation of the Principal Unit and the Apartment, unless both resulting LOTS and the BUILDINGS thereon meet all minimum area, FRONTAGE, width and yard requirements of the applicable zoning district.

m) However, in the R-2, R-4, R-8, R8/4, R-10, and R-10/8 Districts an apartment in such a detached BUILDING shall only be allowed with a Special Permit from the Board of Appeals.]

B. In Section 3.3 - Residential Uses (beginning of section), paragraph b), insert after “19D,” the following phrase:

“Accessory apartment in a detached BUILDING as provided under Section 3.8.1.6;”;

And in paragraph c) delete the phrase “a single FAMILY dwelling with one Apartment in a detached BUILDING under Section 3.3.2.10 of this Bylaw;”.

[Note – Section 3.3. currently reads 3.3 Residential USES – Not more than one BUILDING for dwelling purposes shall be located upon a LOT, except:

- a) in the following Districts: Village Districts (EAV, NAV, SAV, WAV); Residence A District (R-A); Residence AA District (R-AA);
- b) for the following USES: Nursing Home; Full Service Retirement Community; Assisted Living Residence as defined in this Bylaw or in MGL Ch. 19D; and
- c) where a special permit has been granted for the following: a Planned Conservation Residential Community (PCRC) under Section 9 of this Bylaw; an Independent SENIOR Residence under Section 9B of this Bylaw; an AFFORDABLE Housing Development under Section 4.4 of this Bylaw; a single FAMILY dwelling with one Apartment in a detached BUILDING under Section 3.3.2.10 of this Bylaw; a golf course under Section 3.5.17 of this bylaw.]

, or take any other action relative thereto.

Summary

This article would amend the Zoning Bylaw to allow Accessory Apartments as a by-right use in pre-existing and newly constructed detached buildings in all single-family residential zoning districts and on all lots with single-family use, subject to the existing standards for Accessory Apartments. As demonstrated by Acton 2020 Objective 7.4 and Action Items 5.1.1.1 and 7.4.1 and the Housing Production Plan Strategy 5.3, there is a need for a diverse range of affordable housing options and a desire to support the financial ability of all residents to stay in Acton for a lifetime. This amendment addresses that need by removing barriers to increasing the range of housing options available to residents.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

| | | | |
|-------------------------|----------------------------------|---------------------------------|---|
| Recommendations: | <u>Board of Selectmen</u> | <u>Finance Committee</u> | <u>Planning Board</u> <u>Recommended</u> |
|-------------------------|----------------------------------|---------------------------------|---|

Article 9 Amend Zoning Bylaw – Additions and Replacements on Non-Confirming Lots
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw as follows:

A. Non-Confirming Lots

1. In Section 8.1.3, delete the existing section and replace it with the following:

Reconstruction of Single- and Two-Family Dwellings on Nonconforming Lots – A
STRUCTURE lawfully in single-family residential USE on a nonconforming LOT may be razed and rebuilt for single-family residential USE; and a STRUCTURE lawfully in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:

- 8.1.3.1 The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.
- 8.1.3.2 The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.
- 8.1.3.3 The FLOOR AREA RATIO shall be determined by using either architectural and plot plans for the existing structure to be razed or, in the absence of such architectural and plot plans, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor's office.
- 8.1.3.4 Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if otherwise permissible.

[Note Section 8.1.3 currently reads:

*Replacement of Single- and Two-Family Dwellings on Nonconforming Lots – A
STRUCTURE in single family residential USE on a nonconforming LOT may be razed and rebuilt for single family residential USE; and a STRUCTURE in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:*

- 8.1.3.1 The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.*
- 8.1.3.2 The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.*
- 8.1.3.3 In the absence of architectural and plot plans for the existing structure to be razed, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor's office.*
- 8.1.3.4 Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if otherwise permissible and subject to any permits and special permits that may be required.]*

2. In Section 8.1.4 – Extensions, alterations, or changes of Single- and Two-Family Dwellings on Nonconforming Lots, delete the existing section and replace it with the following:

One or more extensions, alterations or changes to a lawful single-family or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 50% of the GROSS FLOOR AREA in

existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later. The GROSS FLOOR AREA shall be determined by using either architectural and plot plans for the existing structure or, in the absence of such architectural and plot plans, GROSS FLOOR AREA shall be determined by the information on record at the Town Assessor's Office,

[Note Section 8.1.4 currently reads:

One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.]

3. In Section 8.1.5, delete the existing section and replace it with the following:

In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single- or two-family residential STRUCTURE on a nonconforming LOT, including the reconstruction of a larger structure than otherwise allow under Section 8.1.3, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.

[Note Section 8.1.5 currently reads:

In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.]

, or take any other action relative thereto.

Summary

This article increases the by-right threshold for extensions, alterations or changes to a structure lawfully used as a single-family or two-family dwelling on a non-conforming lot from 15% to 50% of the size of the existing structure. The size of the existing structure is measured in Gross Floor Area, which is determined by architectural plans and/or plot plans, or in their absence, by the information on record at the Town Assessor's Office. There are many lots in Acton that are non-conforming with respect to minimum frontage or area. Without some accommodation in the zoning bylaw, the State statute, M.G.L. Chapter 40A, § 6, would require that every extension, alteration, or change to a dwelling on a non-conforming lot is subject to a special permit and cannot be done by-right.

This State statute provides the minimum protection above which a town is free to provide more liberal protection to nonconforming lots and structures. The intent of this article is to clearly and expressly provide a more liberal approach than M.G.L. Chapter 40A, § 6, for the protection and accommodation of extensions, alterations or changes to a single-family or two-family dwelling structure on a non-conforming lot. The proposed amendment provides an objective threshold and specific criteria for by-right extensions, alterations or changes to such a single-family or two-family dwelling structure on a non-conforming lot.

Currently, the zoning bylaw provides that a by-right extension, alteration or change to a single- or two-family dwelling structure on a non-conforming lot is limited to a 15% increase to the size of the existing structure. Any increase above 15% currently requires a special permit. After the adoption of the 15% threshold in April 2012 there have been 16 special permit applications under this bylaw section, and all were granted. Twelve of these special permits granted an increase of less than 50%. By adopting this Bylaw change, the Town would acknowledge that an increase of up to 50% to the size of a structure on a single- family or two-family dwelling structure on a non-conforming lot is not more detrimental to Acton neighborhoods than the existing structure. This change would reduce the regulatory burden on homeowners and allow for more effective allocation of Town resources.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

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| Recommendations: | <u>Board of Selectmen</u> | <u>Finance Committee</u> | <u>Planning Board</u> Recommended |
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Article 10 **Amend Zoning Bylaw – Outdoor Lighting Regulations**
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw, Section 10.6 – Outdoor Lighting Regulations for Site Plan Special Permit as set forth herein:

1. Amend Subsection 10.6.2.2 – Control of LIGHT TRESSPASS and GLARE, by inserting new paragraphs g), h), and i):

g) Any installation of LED LUMINAIRES shall use LEDs with nominal color ratings of 4000K or lower. LEDs with color ratings higher than 4000K are not permitted. Whenever possible, LEDs with the lowest possible color rating are recommended. LUMINAIRES shall be shielded from LOTS that are in Residential and Conservation USE, and public roadways so that no direct observation of the LED source shall be visible on the adjacent lot, area or roadway.

h) Any replacement of formerly used Incandescent, Halogen, Metal Halide, Mercury Vapor, or High- or Low-Pressure Sodium LAMPS with new LED lighting shall require the submission of a certified lighting plan to the Zoning Enforcement Officer prior to installation. All such replacements shall comply with paragraph g above.

i) All sites that have already installed LUMINAIRES using LEDs that are greater than color temperature 4000K shall be required to conform paragraph g above within 5 years, or for any source replacement that needs to occur prior to 5 years. A certified lighting plan with the appropriate color temperature LEDs shall be submitted to the Zoning Enforcement Officer prior to installation.

2. Amend Subsection, 10.6.6 Definitions, by inserting the following:

- LIGHT EMITTING DIODE (LED) - Any LUMINAIRE composed on an array of LEDs, typically a bank of 30, 60 or 90, used as a light source.

3. Amend Table 1. , by adding the following new lines:

| Lamp Type | A – SHIELDED | B – FULLY SHIELDED |
|----------------|--------------|--------------------|
| LED30 (<4000K) | - | 70 W |
| LED60 (<4000K) | - | 135 W |
| LED90 (<4000K) | - | 205W |

, or take any other action relative thereto.

Summary

The existing zoning regulations concerning outdoor lighting do not specifically address the use of light-emitting diode (LED) lights. At the time of adoption, LED lights were not widely used; today, they are the primary choice for outdoor lighting due to their energy efficiency and durability. This article seeks to update the Zoning Bylaw to address and better regulate the use of LED lighting.

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| Recommendations: | <u>Board of Selectmen</u> | <u>Finance Committee</u> | <u>Planning Board</u> Recommended |
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Article 11 **Amend Zoning Bylaw – Restaurant Seating**
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw, Section 3 – TABLE OF PRINCIPAL USES by deleting footnote number (8) and replacing it with the following:

(8) “No Special Permit shall be required for a Restaurant with 65 seats or less.”

[Note – footnote (8) currently reads as follows: “No Special Permit shall be required for a Restaurant with 10 seats or less.”]

Summary

Currently the Zoning Bylaw allows restaurants with 10 or fewer seats by right. Restaurants with more require special permits. Since 2011, there have been 11 special permit requests from restaurants seeking more than 10 seats. All of these Special Permits were granted. The requests ranged from 18 to 200 seats, with an overall average of 67 seats. Based on this average, this article proposes to increase the by-right restaurant seat limit from 10 to 65. Under this rule, six of the previous 11 Special Permit requests would have been approved by right, leaving less than half the original amount to be granted by special permit. This change would reduce regulatory burden on applicants and allow for more effective allocation of Town resources. The passage of this amendment would further support the Key Implementation Strategies outlined in the Acton 2020 Comprehensive Plan, which detail Acton residents’ desire for increased dining options in vibrant community centers.

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Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

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|-------------------------|----------------------------------|---------------------------------|------------------------------|
| Recommendations: | <u>Board of Selectmen</u> | <u>Finance Committee</u> | <u>Planning Board</u> |
| | | | Recommended |

Article 12 Amend Zoning Bylaw – Signs and Advertising Devices
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw as follows:

B. Section 7.7: EXTERIOR SIGNS

Delete the existing Section 7.7.4.2 and replace it with the following:

- 7.7.4.2 The height of a WALL SIGN shall not exceed 4.5 feet in the Business, Industrial, and Office Districts, 3 feet in the EAV and EAV 2 Districts, and 2 feet in all other Village Districts.

[Note Section 7.7.4.2 currently reads:

The height of a WALL SIGN shall not exceed 3 feet in the Business, Industrial and Office Districts, and 2 feet in the Village Districts.]

C. Section 7.8: FREESTANDING SIGNS

4. Delete existing Section 7.8.1 and replace it with the following:

- 7.8.1 One FREESTANDING SIGN shall be permitted on a LOT identifying a business located on the same LOT.

[Note Section 7.8.1 currently reads:

One FREESTANDING SIGN shall be permitted on a LOT identifying a business located on the same LOT; and one FREESTANDING SIGN shall be permitted for a BUSINESS CENTER displaying an identification of the BUSINESS CENTER provided no other FREESTANDING SIGN shall be permitted within such BUSINESS CENTER, and provided further that in a Village District no other FREESTANDING or EXTERIOR SIGN shall be ERECTED to identify the BUSINESS CENTER.]

5. Delete existing Section 7.8.5 (standards for freestanding signs in the Business, Industrial and Office Districts) and replace it with the following:

- 7.8.5 The following standards shall apply to FREESTANDING SIGNS in the Business, Industrial and Office Districts:

- 7.8.5.1 Where a FREESTANDING SIGN identifies a business, such FREESTANDING SIGN shall be permitted in addition to any EXTERIOR SIGN permitted on the same LOT. The DISPLAY AREA of the FREESTANDING SIGN shall not exceed 12 square feet and the height shall not exceed 7 feet. If such a FREESTANDING SIGN is a MONUMENT SIGN, its DISPLAY AREA may be increased to 16 square feet, provided however that the height of a MONUMENT SIGN shall not exceed 4 feet, or 6 feet if its width does not exceed 3 feet. Where the FREESTANDING SIGN identifies a motor vehicle service station the maximum permitted DISPLAY AREA may be increased to 24 square feet if the additionally permitted DISPLAY AREA is used solely for the posting of current prices of fuel and gasoline.

- 7.8.5.2 One FREESTANDING SIGN shall be permitted for a BUSINESS CENTER, provided that no other FREESTANDING SIGN identifying an individual business shall be permitted in the BUSINESS CENTER.

- 7.8.5.3 A BUSINESS CENTER is eligible for two FREESTANDING SIGNS when the LOT or LOTS of the BUSINESS CENTER have more than 300 feet of combined FRONTAGE on one or more STREETS, provided that not more than one FREESTANDING SIGN for the BUSINESS CENTER shall be allowed along a continuous FRONTAGE on one STREET that measures less than 300 feet.
- 7.8.5.4 Where a FREESTANDING SIGN identifies a BUSINESS CENTER, each business located within such BUSINESS CENTER may display its identification on the FREESTANDING SIGN together with the identification of the BUSINESS CENTER, provided that such FREESTANDING SIGN remains of integrated and coherent design and complies with all applicable standards. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed a maximum DISPLAY AREA of 50 square feet, and its height shall not exceed 12.5 feet. If a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be increased to a maximum DISPLAY AREA of 62.5 square feet. The height of such a MONUMENT SIGN shall not exceed 10 feet.

[Note Section 7.8.5 currently reads:

7.8.5 The following standards shall apply to FREESTANDING SIGNS in the Business, Industrial and Office Districts:

7.8.5.1 Where a FREESTANDING SIGN identifies a business, such FREESTANDING SIGN shall be permitted in addition to any EXTERIOR SIGN permitted on the same LOT. The DISPLAY AREA of the FREESTANDING SIGN shall not exceed 12 square feet and the height shall not exceed 7 feet. If such a FREESTANDING SIGN is a MONUMENT SIGN, its DISPLAY AREA may be increased to 16 square feet, provided however that the height of a MONUMENT SIGN shall not exceed 4 feet, or 6 feet if its width does not exceed 3 feet. Where the FREESTANDING SIGN identifies a motor vehicle service station the maximum permitted DISPLAY AREA may be increased to 24 square feet if the additionally permitted DISPLAY AREA is used solely for the posting of current prices of fuel and gasoline.

7.8.5.2 Where a FREESTANDING SIGN identifies a BUSINESS CENTER, each business located within such BUSINESS CENTER may display its identification on the FREESTANDING SIGN together with the identification of the BUSINESS CENTER, provided that such FREESTANDING SIGN remains of integrated and coherent design and complies with all applicable standards. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed 20 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 24 square feet, and its height shall not exceed 10 feet. If a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be increased to 24 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 30 square feet. The height of such MONUMENT SIGN shall not exceed 6 feet, or 8 feet if its width does not exceed 4 feet.]

6. Delete Section 7.8.6 (standards for freestanding signs in the Village Districts) and replace it with the following new sections:

7.8.6 The following standards shall apply to FREESTANDING SIGNS in all Village Districts:

- 7.8.6.1 The DISPLAY AREA of a FREESTANDING SIGN identifying an individual business shall not exceed 8 square feet and the height shall not exceed 5 feet. If such a FREESTANDING SIGN is a MONUMENT SIGN, its DISPLAY AREA may be increased to 12 square feet, provided however that the height shall not exceed 4 feet, or 5 feet if its width does not exceed 3 feet. Where the FREESTANDING SIGN identifies a

motor vehicle service station, the maximum permitted DISPLAY AREA may be increased to 16 square feet if the additionally permitted DISPLAY AREA is used solely for the posting of current prices of fuel and gasoline.

- 7.8.6.2 Where a FREESTANDING SIGN identifies a BUSINESS CENTER, each business located within such BUSINESS CENTER may display its identification on the FREESTANDING SIGN together with the identification of the BUSINESS CENTER, provided that such FREESTANDING SIGN remains of integrated and coherent design and complies with all applicable standards.
- 7.8.7 The following standards shall apply to FREESTANDING SIGNS in the NAV, SAV, and WAV Districts:
 - 7.8.7.1 One FREESTANDING SIGN may be ERECTED on a LOT provided that no BUILDING on the LOT is located within 30 feet of the sideline of the STREET nearest which the FREESTANDING SIGN is ERECTED.
 - 7.8.7.2 Where a FREESTANDING SIGN identifies a business no EXTERIOR SIGN shall be ERECTED on the same LOT.
 - 7.8.7.3 The DISPLAY AREA of a FREESTANDING SIGN for a BUSINESS CENTER shall not exceed a maximum DISPLAY AREA of 12 square feet, and its height shall not exceed 6 feet. If such a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be a maximum DISPLAY AREA of 20 square feet. The height of such MONUMENT SIGN shall not exceed 4 feet.
- 7.8.8 The following standards shall apply to FREESTANDING SIGNS in the EAV and EAV-2 Districts:
 - 7.8.8.1 Where a FREESTANDING SIGN identifies a business in the EAV District, one EXTERIOR SIGN shall be permitted.
 - 7.8.8.2 One BUSINESS CENTER sign shall be permitted for a BUSINESS CENTER, provided no other FREESTANDING SIGN identifying an individual business shall be permitted in the BUSINESS CENTER.
 - 7.8.8.3 A BUSINESS CENTER is eligible for two FREESTANDING SIGNS when the LOT or LOTS have more than 300 feet of combined FRONTAGE on one or more STREETS, provided that not more than one FREESTANDING SIGN for the BUSINESS CENTER shall be allowed along a continuous FRONTAGE on one STREET that measures less than 300 feet.
 - 7.8.8.4 The DISPLAY AREA of a FREESTANDING SIGN identifying a BUSINESS CENTER shall not exceed a maximum DISPLAY AREA of 27 square feet, and its height shall not exceed 9 feet. If a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be a maximum DISPLAY AREA of 40 square feet. The height of such MONUMENT SIGN shall not exceed 8 feet.

And, renumber current Section 7.8.7 to become Section 7.8.9.

[Note Section 7.8.6 currently reads:

7.8.6 The following standards shall apply to FREESTANDING SIGNS in the Village Districts:

7.8.6.1 One FREESTANDING SIGN may be ERECTED on a LOT provided that no BUILDING on the LOT is located within 30 feet of the sideline of the STREET nearest which the FREESTANDING SIGN is ERECTED.

7.8.6.2 Where a FREESTANDING SIGN identifies a business in the NAV, SAV, or WAV Districts, no EXTERIOR SIGN shall be ERECTED on the same LOT. Where a FREESTANDING SIGN identifies a business in the EAV District, one EXTERIOR SIGN shall be permitted. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed 8 square feet and the height shall not exceed 5 feet. If such a FREESTANDING SIGN is a MONUMENT SIGN, its DISPLAY AREA may be increased to 12 square feet, provided however that the height shall not exceed 4 feet, or 5 feet if its width does not exceed 3 feet. Where the FREESTANDING SIGN identifies a motor vehicle service station, the maximum permitted DISPLAY AREA may be increased to 16 square feet if the additionally permitted DISPLAY AREA is used solely for the posting of current prices of fuel and gasoline.

7.8.6.3 Where a FREESTANDING SIGN identifies a BUSINESS CENTER, each business located within such BUSINESS CENTER may display its identification on the FREESTANDING SIGN together with the identification of the BUSINESS CENTER, provided that such FREESTANDING SIGN remains of integrated and coherent design and complies with all applicable standards. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed 8 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 12 square feet, and its height shall not exceed 6 feet. If a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be increased to 12 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 20 square feet. The height of such MONUMENT SIGN shall not exceed 4 feet, or 6 feet if its width does not exceed 3 feet.]

D. Section 7.13: SIGNS Requiring a Special Permit from the Planning Board

In Section 7.13.1, which defines the scope and limits of the Planning Board's special permit authority for signs, delete Section 7.13.1.2 and replace it with the following:

7.13.1.2 EXTERIOR SIGNS with dimensions in excess of those permitted under Sections 7.7 subject to the following limitations:

- a) no SIGN wider than one and one half times the maximum width otherwise permitted, and
- b) no SIGN larger than twice the otherwise permitted maximum DISPLAY AREA, and
- c) any such other limitation as the Planning Board may find appropriate to further the purpose of this Section as stated in Section 7.1.

[Note Section 7.13.1.2 currently reads:

7.13.1.2 SIGNS with dimensions in excess of those permitted under Sections 7.7 and 7.8, subject to the following limitations:

- a) no SIGN higher or wider than one and one half times the maximum height or width otherwise permitted, and*
- b) no SIGN larger than twice the otherwise permitted maximum DISPLAY AREA, and*
- c) no FREESTANDING SIGN larger than 40 square feet in DISPLAY AREA or higher than 10 feet, and*
- d) any such other limitation as the Planning Board may find appropriate to further the purpose of this Section as stated in Section 7.1.]*

, or take any other action relative thereto.

Summary

This article is intended to streamline the existing sign permitting process so as to reduce the burden on applicants and to improve the allocation and effective use of Town resources. This article proposes changes to three sections of the existing Bylaw: Section 7.7 (EXTERIOR SIGNS); Section 7.8 FREESTANDING SIGNS; and Section 7.13 (SIGNS Requiring a Special Permit from the Planning Board).

Part I. EXTERIOR SIGNS

This article proposes an increase in the by-right height for wall signs from 3 feet to 4.5 feet in the Business, Industrial and Office Districts and from 2 feet to 3 feet in the East Acton Village Districts. Since 2011, 20 special permits for wall signs have been requested and all were granted. Of these, 5 permits were granted to applicants seeking to erect wall signs higher than 2 or 3 feet, respectively. By increasing the by-right maximum allowable height, the number of special permit requests for signs could have been reduced by 25%.

Part II. FREESTANDING SIGNS

Since 2011, 6 special permits have been granted to applicants seeking to increase the dimensions or quantity of business center signage. This article proposes to increase the by-right display area and height of business center signs in the Business, Office, Industrial, EAV and EAV-2 Districts. For business centers in the aforementioned zoning districts, the number of by-right business center signs may be increased from 1 to 2 if the lot or lots' frontage meets the minimum requirements. The proposed changes encourage business centers to utilize cohesive business center signage for identification instead of multiple individual business signs.

Part III. SIGNS Requiring a Special Permit from the Planning Board

Increasing the maximum by-right sign display area and height can reduce the need for applicants to seek sign special permits. Savings in time and money benefit the business owner, while a reduction in the number of sign special permit applications allows the Planning Board to more effectively allocate its time and resources. This article seeks to eliminate the special permit option for freestanding signs; instead special permits are available for exterior signs no more than one and one half times the maximum allowable width and twice the maximum allowable display area. By eliminating special permits for freestanding signs that exceed the quantity and dimensions allowed by Section 7.8, the proposed changes favor streamlined business center signage over multiple individual business signs.

Since 2011, a total of 40 signs have been approved for 72 different waivers including display area, height, quantity, location, and other factors. These special permits are often granted without amendments, and hearings are very rarely attended by concerned abutters. Expanding the by-right options for business owners may decrease the quantity of special permit applications, thus reducing the financial and time-related burden on the applicant and making better use of Town resources.

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Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

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| Recommendations: | <u>Board of Selectmen</u> | <u>Finance Committee</u> | <u>Planning Board</u> Recommended |
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And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.


Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this twenty-first day of September, two thousand sixteen.

Peter J. Berry, Chair
Janet K. Adachi, Vice-Chair
Frances J. Osman, Clerk
Katie Green
Chingsung Chang

Board of Selectmen

A true copy, Attest:


Constable of Acton



**Town of Acton
472 Main Street
Acton, MA 01720**

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